

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**CSX TRANSPORTATION, INC.,**

**Plaintiff,**

**v.**

**Civil Action No. 2:18-cv-530-MSD-RJK**

**NORFOLK SOUTHERN RAILWAY  
COMPANY, *et al.*,**

**Defendants.**

**NORFOLK AND PORTSMOUTH BELT LINE RAILROAD COMPANY’S  
MEMORANDUM IN SUPPORT OF MOTION TO FILE DOCUMENTS UNDER SEAL**

Norfolk and Portsmouth Belt Line Railroad Company (“Belt Line”), by counsel, states as follows in support of its motion to seal: (1) unredacted portions of the Reply Brief in Support of its Motion *in Limine* #5 to Exclude Testimony from Plaintiff’s Expert Howard Marvel and (2) Exhibit 1 to the brief. The redactions contain certain highly confidential, proprietary, and sensitive business information, the release of which could harm the Belt Line, CSX Transportation, Inc., and/or Norfolk Southern Railway Company.

1. There are three requirements for sealing court filings: (1) public notice with opportunity to object; (2) consideration of less drastic alternatives; and (3) a statement of specific findings in support of a decision to seal and reject alternatives to sealing. *Flexible Benefits Council v. Feldman*, No. 1:08-CV-371, 2008 U.S. Dist. LEXIS 93039 (E.D. Va. Nov. 13, 2008) (citing *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)). Even when no party challenges a motion to seal, the Court must still ensure the motion is supported by good cause. *Auburn Univ. v. IBM Corp.*, No. 3:0-cv-694-MEF, unpublished, 2010 WL 3927737 (M.D. Ala. Oct. 4, 2010).

2. All three requirements are met here. On October 29, 2019, the Court entered a Stipulated Protective Order, which governs the parties' use of confidential information produced in this case. *See* D.E. 79. Paragraph 2 of the Stipulated Protective Order defines "Protected Material" as material containing information that "must or may be protected from disclosure," including material designated "CONFIDENTIAL" and "CONFIDENTIAL – ATTORNEYS' EYES ONLY." *Id.* at para. 2.

3. The Belt Line's brief and Exhibit 1 thereto contain highly confidential and sensitive information relating to CSXT's, NS's, and the Belt Line's transportation and shipping practices, business strategies, internal communications, and other highly confidential, proprietary, and sensitive business information that has been marked as either "CONFIDENTIAL" or "CONFIDENTIAL - ATTORNEYS' EYES ONLY," the release of which would harm the parties.

4. This information thus constitutes "Protected Material" under the Stipulated Protective Order. *See id.*

5. The Stipulated Protective Order requires the Belt Line to file these documents under seal. *See id.* at para. 16.

For the foregoing reasons, the Belt Line requests that the Court enter the proposed order attached as Exhibit 1 to the Belt Line's motion to seal, granting the Belt Line leave to file the unredacted portions of the Reply Brief in Support of its Motion *in Limine* #5 to Exclude Testimony from Plaintiff's Expert Howard Marvel, and Exhibit 1 to the brief, under seal, and directing the Clerk of Court to maintain such exhibits under seal pending further order of the Court.

Dated: November 14, 2022

**NORFOLK AND PORTSMOUTH  
BELT LINE RAILROAD COMPANY**

By: /s/ W. Ryan Snow  
James L. Chapman, IV, VSB No. 21983  
W. Ryan Snow, VSB No. 47423  
Alexander R. McDaniel, VSB No. 92398  
CRENSHAW, WARE & MARTIN, P.L.C.  
150 W. Main Street, Suite 1923  
Norfolk, Virginia 23510  
Telephone: (757) 623-3000  
Facsimile: (757) 623-5735  
jchapman@cwm-law.com  
wrsnow@cwm-law.com  
amcdaniel@cwm-law.com  
*Counsel for Norfolk and Portsmouth Belt  
Line Railroad Company*

**CERTIFICATE OF SERVICE**

I certify that on this 14th day of November 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a “Notice of Electronic Filing” to all counsel of record who have consented to electronic service.

/s/ W. Ryan Snow  
W. Ryan Snow, VSB No. 47423  
CRENSHAW, WARE & MARTIN, P.L.C.  
150 W. Main Street, Suite 1923  
Norfolk, Virginia 23510  
Telephone: (757) 623-3000  
Facsimile: (757) 623-5735  
wrsnow@cwm-law.com  
*Counsel for Norfolk and Portsmouth Belt  
Line Railroad Company*